

201506188

Juan Santiago

Officers responding to a call of shots fired approached a group of teenagers in front of a residential building. The boys stated that they had not heard any shots and did not know any information about any shots fired. The officers asked the boys to disperse but the boys refused because they were in front of their building.

The officers singled out one boy, pushed him to the ground, and arrested him. The officers claimed in their interviews that the boy had shoved them, but a video recording of the incident showed that this was not true. The boy claimed he had been held in a chokehold, and while the video showed that the officer had his hand around the boy's head, it was inconclusive as to whether the hand was around his neck.

The CCRB found that while PO Santiago acted properly in making the initial stop, he had arrested the boy in retaliation, which constituted an abuse of authority. It further found that he had made a false statement about being pushed.

Because the case had been filed a year after the incident, the case was closed only a short time before the statute of limitations expired.

The police department did not discipline PO Santiago, claiming that the statute of limitations prevented it from doing so.

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## Interview Details

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██████████ filed the following complaint as a walk-in at the CCRB on July 27, 2015.

██████████ is a 5'6" tall, 172 pound, black male with black hair and brown eyes. He was ████████ years old at the time of the incident.

### CCRB Testimony

On July 18, 2014 at approximately 12:35 a.m., ██████████ and his friends, ██████████ and ██████████ sat on the steps in front of ██████████ in the Bronx. A marked police vehicle pulled up in front of the building with lights on. Two officers exited the vehicle and PO1 asked ██████████ if he knew anything about gunshots in the vicinity and he replied that he did not. ██████████ had on a blue shirt, grey sweatpants and white sneakers. PO1 told ██████████ and his friends to move from the building entrance and ██████████ replied, "We don't have to move." At some point ██████████ stood up and PO1 told him to sit down and he refused. PO1 asked ██████████ and his friends if they had weapons on them. One of the officers asked ██████████ friends ██████████ and ██████████ to get against a nearby non-police vehicle. They were both frisked and had their pockets searched but ██████████ could not recall which officers frisked who. ██████████ and ██████████ were not frisked or searched. ██████████ later stated that the officers told him that a neighbor had called and stated that he and his friends were blocking the entrance. ██████████ stated that he read PO1's name as "Santiago" from his nameplate. ██████████ stated in his interview that they were not blocking the entrance because there were two entrances to the building.

Less than ten minutes had passed before ██████████ told PO1 that he lived in the building and PO1 grabbed him by the arm. About 4-5 additional officers arrived and one of the officers put ██████████ in a chokehold and ██████████ dropped himself face down on the ground. Another officer put his knee on the middle of his back. The officer had his arm around ██████████ neck. ██████████ could not recall which officer did either of these actions. When he was in the chokehold, the officer's arm restricted his breathing and he yelled at the officers that he could not breathe because he had asthma. He was in the chokehold for a few minutes but he could not estimate an exact amount. He did not lose consciousness at any point. ██████████ did not know if the same officer that put him in the hold was the one that grabbed his arm. An unknown officer also pushed the right side of ██████████ face down towards the ground. ██████████ left side hit the ground. ██████████ did not get any injuries such as scrapes or bumps as a result. He was handcuffed by an unknown officer and placed into the vehicle. As he sat in the vehicle, his mother came out of the building but he did not know what she did. None of ██████████ friends were detained or arrested. They stood by and watched as ██████████ was arrested. ██████████ pleaded with the officers to let him go because he had to go to work the next day. An unknown officer told him, "We will let you go if you give up anyone." ██████████ did not know what the officer meant by that comment. ██████████ asked again if he could let him do and the officer replied, "No, you should have listened. You were trying to be a tough guy." ██████████ was taken to the 40<sup>th</sup> Precinct stationhouse and he immediately asked PO1 to go to the hospital for his shortness of breath. PO1 asked him, "Are you sure you want to go?" and told him that he would be delayed in seeing the judge. ██████████ told the officer he no longer wanted to go to the hospital because he wanted to go home since he had to go to work. ██████████ criminal attorney, ██████████ has video footage of the incident.

██████████ was charged with resisting arrest and obstruction of governmental administration. The charges were dropped in court, one year later.

Santiago: Light-skinned Hispanic, 5'7"- 5'8" tall, in his 30s, in uniform.

PO2: white male, chubby, short, 5'5" tall, in his 40s, uniform.

Captain: Male with white shirt.

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## Interview Details

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PO Juan Santiago was interviewed at the CCRB on September 1, 2015.

*PO Santiago is a 5'1" tall, 195 pound, Hispanic male with Black hair and Brown eyes.*

*On the date of the incident, PO Santiago was assigned to Precinct Conditions and worked from 1930 to 0405. He did not recall who his partner was but knew he was in marked vehicle [REDACTED]*

### Memo Book

On July 18, 2014, at 12:37 a.m. there was a radio run for shots fired at [REDACTED] At 12:48 a.m., [REDACTED] was arrested from [REDACTED] At 1:15 a.m., PO Santiago arrived at the 40<sup>th</sup> Precinct.

### CCRB Testimony

On July 18, 2014, at approximately 12:37 a.m., there was a radio run for shots fired at [REDACTED] in the Bronx. PO Santiago did not recall who he was partnered with. PO Santiago arrived at the location and observed a large group of 15 to 20 males in front of the building blocking the entrance. He could not recall what those people were doing but stated that people are usually standing in front of that building smoking marijuana. PO Santiago did not recall if he and his partner were the first officers to arrive. PO Santiago asked the group in general if they had heard any shots fired. He did not direct the question to anyone specific. There were eventually several officers there but he did not recall who was there or the names of any supervisors on scene. He did not recall any white shirt officers on scene. He also did not know if the officers were from his command. PO Santiago did not have any other reason other than the call to believe anyone had a firearm. An officer that PO Santiago did not recall asked the group if anyone had any weapons on them. PO Santiago did not recall if he asked [REDACTED] specifically about the shooting or about being in front of the building. The group was generally cooperative, however a few told the officers, "Fuck you." Ten feet away, another officer who PO Santiago believed was an impact officer asked [REDACTED] questions that he did not recall and [REDACTED] immediately yelled, cursed and argued with him. PO Santiago could not describe the impact officer other than he was a male. He did not know what command the impact officer was from. PO Santiago stated that there might have been an unknown officer that told [REDACTED] to leave the location but he did not recall who made that statement or why [REDACTED] would not have been able to remain there.

PO Santiago approached [REDACTED] and stood between him and the impact officer and told [REDACTED] to relax. [REDACTED] then pushed PO Santiago with two open palms to the chest. PO Santiago did not fall down as a result of the push and did not recall if he was injured. It was at this moment that it was determined that [REDACTED] would be under arrest. As unknown officers tried to handcuff [REDACTED] he fought with them by throwing punches. One or two of the punches made contact with PO Santiago. As PO Santiago tried to grab [REDACTED] arm, he was punched by an unknown person. PO Santiago could not recall what other actions or motions [REDACTED] did that could be considered "fighting." He did not know if the punches made contact with any other officer. PO Santiago did not recall if any other civilian got involved or tried to intervene in the arrest. PO Santiago could not describe the handcuffing process or if who put the handcuffs on [REDACTED] PO Santiago did not recall if he put handcuffs on [REDACTED] PO Santiago recalled being on the floor at some point but did not know if [REDACTED] was ever on the floor. He stated that [REDACTED] might have fallen down on top of him. [REDACTED] was never compliant through the entire incident and made several statements to officers that PO Santiago could not recall. PO Santiago did not punch, kick or put his arm around [REDACTED] neck. He did not put [REDACTED] in a chokehold and did not see any other officer do so. The incident took approximately 10 minutes and the apprehension took approximately five minutes. However, PO Santiago estimated this time based on his memo book entries.

After [REDACTED] was in handcuffs, there was no further incident. PO Santiago brought [REDACTED] to his vehicle and transported him to the 40<sup>th</sup> Precinct stationhouse. PO Santiago did not recall if any of [REDACTED] friends were searched or frisked or who searched [REDACTED] prior to removal from the scene.

There were no visible injuries on [REDACTED] and he did not complain of any. [REDACTED] did not complain that he had asthma or that he could not breathe at any point. PO Santiago asked [REDACTED] if he wanted medical attention at the stationhouse. [REDACTED] replied, "Fuck you. Suck my dick you piece of shit punk. Come fight me now." PO Santiago however stated that he did not believe those comments were directed at him personally, but instead to all police officers in general. [REDACTED] was charged with OGA, and harassment for assaulting a police officer.

PO Santiago was shown a video of the incident but he did not recall any details as it was so long ago. The video was paused at 9:08 and PO Santiago stated that he could not recognize the officer on the screen and it was too blurry. At 9:11 of the recording, PO Santiago is shown an officer interacting with a male in a light blue shirt. PO Santiago did not recognize the officer and did not know if it was himself. As the recording played, PO Santiago stated that he saw a white shirt officer in the video at 9:49 but he did not know who he was. He stated that he might be from the 42<sup>nd</sup> Precinct. At 9:58 of the video, PO Santiago is shown several

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## Interview Details

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officers grabbing [REDACTED] He did not recognize himself or any other officer in the video. PO Santiago was asked if he saw [REDACTED] push any officer in the video. He stated that regardless of the video, he recalled being pushed by [REDACTED]

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## Interview Details

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PO Osvaldo Hernandez was interviewed at the CCRB on September 17, 2015

*PO Hernandez is a 5'6" tall, 185 pound, Hispanic male with black hair and brown eyes. He was 33 years old at the time of the incident. PO Hernandez was assigned to Conditions for the 40<sup>th</sup> Precinct and worked from 1930 to 0805. He was originally partnered with PO Garcia-Rivas and was then switched to work with PO Santiago at 2335.*

### Memo Book

On July 18, 2014, at 12:37 a.m., PO Hernandez and PO Santiago received a call for shots fired at [REDACTED] At 12:55 a.m. one person was arrested by PO Santiago.

### CCRB Testimony

On July 18, 2015, at 12:37 a.m., PO Hernandez and PO Santiago responded to shots fired at [REDACTED] in the Bronx. There were no additional details such as description provided in the call. PO Hernandez did not recall if he called the 911 caller back to confirm the shots fired. Upon arrival, PO Hernandez saw a group of five to seven people, male and female, sitting on two steps in front of the building. The steps were approximately 10-15 feet long and they sat all across them. PO Hernandez stated that it is not illegal for people to sit on those steps but it is a violation of blocking pedestrian traffic. PO Hernandez and PO Santiago asked the group if they heard any gunshots and they replied that they did not. They also asked people walking by if they heard anything and they said no. PO Hernandez did not recall if any of those people were asked if they lived in the building or if they were asked for identification. PO Hernandez and PO Santiago did not attempt to speak to anyone inside the building that would have made the 911 call. PO Hernandez stated that the location is a large residential building and is known for calling in false reports for shots fired, robberies or people with guns when tenants want people removed from the front of the building. PO Hernandez could not recall any specific dates or times when this happened before. There were no specific calls or radio runs for people sitting on the steps at that location. PO Hernandez and PO Santiago told the group of people to move away from the building entrance and move down the street so people can move in and out of the building. Approximately six of the individuals stood up and walked away. PO Hernandez thanked them for cooperating. He explained that if the group moved that people would stop calling in the false reports. PO Hernandez did not frisk or search any of the individuals and did not know if any other officers do so. Other units had responded to the location and arrived within 20 seconds after PO Hernandez arrived. He did not recall who any of them were and did not recall if there were any white shirt officers there.

PO Santiago spoke with one or two other individuals from the group. One of the individuals PO Santiago spoke with was [REDACTED] did not speak to PO Hernandez. [REDACTED] told PO Santiago, "I'm not moving because I live here." PO Santiago continuously told [REDACTED] to just move away from the entrance. PO Hernandez did not see what [REDACTED] did but he heard PO Santiago state, "put your hands behind your back." PO Hernandez turned and saw PO Santiago struggling and attempting to handcuff [REDACTED]. The other unknown officers got involved and attempted to help handcuff [REDACTED] by holding his arms and back. PO Hernandez did not recall if [REDACTED] struck any officers. PO Hernandez stated that he stood 15 to 20 feet away from [REDACTED] and PO Santiago and there was nothing obstructing his view. He did not see who put the handcuffs on [REDACTED] but he was transported in PO Hernandez's vehicle. He stated that [REDACTED] was taken down to the ground at some point but he did not see how that occurred. PO Hernandez did not put [REDACTED] in a chokehold and did not know if any other officer did. He did not see any officer put his arm around [REDACTED] neck or put their hands near his neck. He did not hear [REDACTED] complain that he could not breathe. He could also not account for how [REDACTED] struggled on the ground except that he would not give up his arms. PO Hernandez also stated that the amount of officers in his way after [REDACTED] was on the ground obstructed his view of how [REDACTED] struggled. PO Hernandez did not see any injuries or blood on [REDACTED] after he was handcuffed.

PO Hernandez stated that he was not struck by any individual during this incident. He did not recall if he was pushed by [REDACTED]. He was shown the criminal court complaint which stated that PO Hernandez was pushed. He stated that it was an error in the paperwork and that the shield number provided within the report was not his.

PO Hernandez was shown a video of the incident.

At 9:11 of the video, he was asked if he could identify the officer on the screen that approached [REDACTED]. He stated that it might be PO Santiago. At 9:30 of the video he was asked where he was and he stated that he was on the left (off screen). At 9:39 and 9:49 PO Hernandez was asked who the white shirt officer was and he could not recognize him. At 10:00 of the video, PO Hernandez could not recognize any other officers on screen. At 10:11, PO Hernandez could not identify himself as one of the

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officers which brings [REDACTED] to the floor. At 12:40 of the second video in IA 26, PO Hernandez was shown an officer patting down one of [REDACTED] friends who is unidentified. He did not see that happen and did not know who the officer was that patted him down.



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## Interview Details

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Sgt. John Ferrara was interviewed at the CCRB on October 5, 2015.

*Sgt. Ferrara is a 5'11" tall, 215 pound, white male with black hair and brown eyes. He was 40 years old at the time of the incident. Sgt. Ferrara was the Conditions Sergeant on the date of the incident and worked with PO Santiago from 1920 x 0417.*

### Memo Book

On July 18, 2014, at 12:37 a.m., there was a radio run for shots fired at [REDACTED]. At 12:40 a.m., one individual was arrested at 12:48 a.m.

### CCRB Testimony

On July 18, 2015, at approximately 12:37 a.m. there was a radio run for shots fired at [REDACTED] in the Bronx. The description over the radio stated it was a black male with a firearm. He did not recall if there was a clothing description provided or if they said it was more than one male. He did not recall if the caller was identified or if he called back central for more information. Sgt. Ferrara arrived at the location and the first thing he observed was that there were several black males on the steps at the entrance of the building. He did not recall if he and PO Santiago were the first to arrive and did not know when further units arrived or who they were. He could not estimate how many there were but recalled it being more than two. He did not know if they were sitting or standing but stated that they were blocking the entrance. [REDACTED] did not immediately stand out at that point. Sgt. Ferrara explained why they were there and the males stated they did not have anything on them. The males also stated that the officers could search them and put their hands up. Sgt. Ferrara stated that they were frisked but did not know who did it. Sgt. Ferrara did not recall if any commands were issued to the group to disperse. Sgt. Ferrara did not recall why he and his partner believed [REDACTED] and his friends might have been the subjects of the radio run.

One individual, identified as [REDACTED] yelled towards the officers, "Fuck the police. Fuck you guys. I'm not fucking doing shit. Fuck you." Sgt. Ferrara was shown a photo of [REDACTED] from his interview and he did not recall if that was the same individual. Several apartments' lights turned on and crowds started gathering due to [REDACTED] boisterous behavior. The crowd yelled things towards officers but Sgt. Ferrara did not recall what they were. Sgt. Ferrara stated that he made the decision to arrest [REDACTED] for disorderly conduct. Their original intention was to take him to the stationhouse, run him for warrants and then release him with a summons. Sgt. Ferrara did not recall if [REDACTED] was asked for identification prior to being handcuffed. PO Santiago went to handcuff [REDACTED] but he turned around and violently pushed PO Santiago with two hands to the chest. Sgt. Ferrara did not recall if he himself got pushed. Sgt. Ferrara put his arm around [REDACTED] head and pulled him down to the ground. He did not recall whether he stood in front or behind [REDACTED] when he grabbed his head. He did not recall how he and [REDACTED] ended up on the ground. He did not recall if any other officer had their hands on [REDACTED]. Sgt. Ferrara stated that he did not put [REDACTED] in a chokehold and that his arm was around his head, not his neck. Sgt. Ferrara did not touch [REDACTED] neck. Sgt. Ferrara did not recall if [REDACTED] ever complained that he could not breathe or his breathing was restricted. Once on the ground, he was successfully handcuffed. He did not recall how long it took to handcuff, he did not recall which officers assisted and did not recall who put the handcuffs on. He did not recall if [REDACTED] had any injuries or complained of any. Sgt. Ferrara did not recall who transported [REDACTED]. He did not recall if [REDACTED] appeared injured or if he complained of any injuries. He did not recall if he asked for medical attention.

Sgt. Ferrara was shown video footage of the incident. At 7 seconds of the video, Sgt. Ferrara stated that the location in the video was consistent with his memory and that he believed the group of individuals on the screen was the same from that night. At 9:09 of the video, Sgt. Ferrara identifies the officer on screen as possibly being PO Santiago. Sgt. Ferrara noticed the white shirt officer on the screen but stated that he did not know who that was. He did not recall any other high ranking officers being there. At 9:55 Sgt. Ferrara did not see himself on the screen and he could not identify the officer grabbing [REDACTED] wrist. At 10:00 Sgt. Ferrara could not recognize the officer on the right side of the screen. Sgt. Ferrara was asked if he recalled when [REDACTED] fell into a seated position as per the video but he did not recall. Sgt. Ferrara was shown [REDACTED] at 10:07 with an officer's arm around his head and Sgt. Ferrara stated that it might be him but was not sure. Sgt. Ferrara was asked to point out the push that he alleged that [REDACTED] did to PO Santiago. Sgt. Ferrara stated that the push occurred during the struggle and was not visible on camera.